

S/N: 10/647,698

Atty Dkt No. GP-302475 (GM0328PUS)

REMARKS

The following remarks are intended to be fully responsive to the Office Action mailed June 6, 2005.

Claims 1, and 4-21 are pending. Claim 5 has been cancelled. Claims 1, 6, 8, 12 and 21 are currently amended.

Claims 12-13 and 15-16 are rejected under 35 U.S.C. §102(b) as being anticipated by Vermeulen (6,022,057). Claims 1 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by Eipper et al. (6,224,120). Claims 5-7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Eipper et al. as applied to claim 4 and in view of Tohda et al. (6,447,049). Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eipper et al. as applied to claim 1 in view of Sundgren et al. (6,726,258). Claims 1 and 11 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Vermeulen. Claim 21 is rejected under 35 U.S.C. §103(a) as being unpatentable over Eipper et al. in view of Sundgren.

Claims 12-13 and 15-16 are rejected under 35 U.S.C. §102(b) as being anticipated by Vermeulen. Claim 12 has been amended to recite a "vehicle bumper comprising: a first one-piece *metal* member defining a first generally horizontally-oriented channel, a second generally horizontally-oriented channel ..., a first generally vertically oriented channel ..., and a second generally vertically oriented channel" (Emphasis added.) It can thus be seen that all four channels of Applicants' bumper are defined by a single, one-piece, metal member. In contrast, Vermeulen's bumper 2 includes "[a] cover element 5 manufactured from deformable plastic ... connected to a metal support construction 7." Column 2, Lines 43-44. Additionally, "[t]he support construction 7 is *built up of profile parts 8...*" Column 2, Lines 45-46. (Emphasis added.)

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It is unclear which portion of Vermeulen's bumper the Examiner purports anticipates Applicants' claim 12. However, it can be seen that neither the cover element 5 nor the support construction 7 of Vermeulen's bumper 2 anticipates every element of claim 12. First, Vermeulen's cover element 5 is manufactured from plastic, while Applicants' claim 12 as amended recites a first one-piece member made from metal. Furthermore, Vermeulen's support construction 7 comprises a plurality of profile parts 8, as stated in Vermeulen's specification, and indicated in Figure 2. It can thus be seen that Vermeulen does not disclose, either expressly or inherently, "a one-piece metal member" defining a plurality of interconnected channels as recited by Applicants in amended claim 12. Accordingly, claim 12 is not anticipated by Vermeulen, and therefore is allowable. Claims 13, 15 and 16 depend from claim 12, and are therefore allowable for at least the same reasons that claim 12 is allowable.

Additionally, claim 13 recites "a second one-piece member closing the first and second generally horizontally oriented channels and the first and second generally vertically oriented channels." Neither the cover element 5 nor the support construction 7 of Vermeulen's bumper 2 anticipates every element of claim 13. Referring to Figure 2 of Vermeulen, when assembled, support construction 7 may close channels defined by cover element 5; however, cover element 5 does not close any channels defined by support construction 7. Therefore, it is assumed that the Examiner believes support construction 7 correlates with the second one-piece member recited by Applicants in claim 13. However, as stated previously, the support construction 7 is made up of a plurality of profile parts 8, and therefore cannot be a "one-piece member" as recited in claim 13. Furthermore, referring to Figures 3 and 4a-4d of Vermeulen, it does not appear that the support construction 7 closes channels formed within the cover element even when the bumper 2 is assembled. Accordingly, claim 13 is not anticipated by Vermeulen, and therefore is allowable.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Eipper et al. The Examiner states that "the first portion and the second portion (despite apparent small gaps) are 'substantially' contiguous." However, the Examiner never

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identifies which portions of Eipper et al.'s vehicle constitute the first and second portions for purposes of the rejection. Eipper et al. disclose a "front protection bow 12 ... arranged *above a bumper 23*." Column 4, Lines 30-31. (Emphasis added.) However, it can be seen that neither the bumper 23 nor the front protection bow 12 anticipates every element of claim 1 or claim 4.

Applicants will first assume the Examiner considers Eipper et al.'s bumper 23 to be the second portion. This assumption seems the most reasonable since Eipper et al. teaches that the bumper 23 is the primary means of "receiving a load in the event of an impact to a portion of the vehicle periphery," as Applicants recite in claim 1. For instance, Eipper et al. states that "[t]he bumper consists of a plastic material and, in a customary manner, is connected by known elastic intermediate elements with a forward cross member so that, at least to an impact speed of 4 km/h, the bumper has elastically flexible characteristics." Column 4, Lines 37-41. Assuming the bumper 23 is the second portion, Applicants cannot identify any "body panel forming a first portion of the vehicle exterior surface" with which the second portion (i.e. the bumper 23) is substantially contiguous, as recited by Applicants in claim 1. As such, claim 1 is not anticipated by Eipper et al., and therefore is allowable. Claim 4 depends from claim 1, and is therefore allowable for at least the same reasons.

Applicants will next assume the Examiner considers Eipper et al.'s front protection bow 12 to be the second portion. This seems unlikely as a choice for Eipper et al.'s primary means of "receiving a load in the event of an impact to a portion of the vehicle periphery," as recited by Applicants in claim 1. Namely, Eipper et al. state that "[i]n the section 24 the frame 22 of the front protection bow 12 is arranged in a sunk manner." Column 4, Lines 45-46. Indeed, Eipper et al. routinely refer to the "sunk front protection bow 12." Since the front protection bow 12 is sunk behind a portion of the vehicle, and most notably behind the bumper 23, it is unlikely that the front protection bow would "receiv[e] a load in the event of an impact to a portion of the vehicle periphery," as recited by Applicants in claim 1; the bumper 23 would receive the load. Therefore, even though the front protection bow 12 may be contiguous with a body panel

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forming a first portion of the vehicle exterior surface, namely the vehicle hood, the front protection bow 12 cannot be said to be a "bumper...for receiving a load in the event of an impact" as recited by Applicants in claim 1 when it is in the sunken position.

The front protection bow 12 is designed to move to a "moved-out position," as shown in Figure 5. When in the moved-out position, the front protection bow 12 extends beyond the bumper 23, such that it would receive the load, and therefore could be considered a second portion for purposes of comparison with Applicants claim 1. That is, the front protection bow 12 can only be a bumper when in "the moved-out position." However, it is clear that when in the moved-out position shown in Figure 5, the front protection bow 12 is not contiguous with any "body panel forming a first portion of the vehicle exterior surface" as recited by Applicants in claim 1. As such, claim 1 is not anticipated by Eipper et al., and therefore is allowable. Claim 4 depends from claim 1, and therefore is allowable for at least the same reasons.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eipper et al. as applied to claim 4 above and in view of Tohda et al. Claim 5 has been cancelled. From the previous discussion it is clear that Eipper et al. does not anticipate every element of claim 4, which depends from claim 1 and therefore necessarily includes all the limitations of claim 1. Therefore, claims 6 and 7, which depend from claim 4, therefore are allowable for at least the same reasons. Additionally, the Examiner states that Tohda et al.'s bumper "is operatively connected to two lower rails 26 and two upper rails 19." However, it is clear from Figure 2, and from Tohda et al.'s own specification which defines "upper bracket arms 19" and "lower bracket arms 26," that 26 and 19 are not "rails" at all, as recited by Applicants in claim 4. The Merriam-Webster Online Dictionary (www.m-w.com) defines a rail as "a bar extending from one post or support to another and serving as a guard or barrier." In stark contrast, a bracket is defined as "an overhanging member that projects from a structure." It is clear from Figure 2 of Tohda et al. that the brackets 19, 26 are not rails. As such, the rejection of remaining claims 6 and 7 under 35 U.S.C. 103(a) as being unpatentable over Eipper et al. as applied to claim 4

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above and in view of Tohda et al. is clearly improper. Therefore, claims 6 and 7 are allowable.

Claims 8-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over Eipper et al. as applied to claim 1 above and in view of Sundgren. However, the Examiner relies on Eipper et al. for the rejection of claim 1, when Eipper et al. clearly does not anticipate all the elements and limitations of claim 1, as discussed *infra*. Claims 8-10 ultimately depend from claim 1, and therefore should be allowable for at least the reasons claim 1 is allowable, despite the combination of with Sundgren. Additionally, the Examiner states that "Sundgren et al. (6,726,258) teach a bumper having inner and outer panels wherein the inner panel has strength formations 6." However, Sundgren actually discloses a bumper comprising "a forward flange 1, a rear flange 2, an upper web 3 and a lower web 4. The flanges 1 and 2 and the webs 3 and 4 *constitute parts of one and the same piece of material* and form the principal limiting surfaces of the bar." Column 2, Lines 46-49. (Emphasis added.) Since Sundgren does not teach "an inner and outer panel wherein the inner panel has strength formations," the Examiner has rejected claims 8-10 in error. Accordingly, claims 8-10 are allowable.

Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vermeulen. Claim 1 is currently amended to add the limitation of former claim 5 such that the metal bumper of claim 1 now includes "a one-piece metal inner panel and a one-piece metal outer panel operatively connected to the one-piece inner panel." As discussed earlier, the cover element 5 of Vermeulen's bumper 2 is manufactured from plastic, while the support construction 7 of Vermeulen's bumper is formed from a plurality of profile parts 8. Thus Applicants' claim 1 clearly includes two limitations not anticipated by Vermeulen, and not obvious in light of Vermeulen. In fact, Vermeulen teaches away from Applicants' claim limitations, by stating the cover element 5 is made of plastic and the support construction 7 is formed from a plurality of profile parts. As such, Applicants believe that the currently amended claim 1 obviates the Examiner's rejection thereof.

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Accordingly, claim 1 is allowable. Since claim 11 depends from claim 1, claim 11 is allowable for at least the same reasons as claim 1.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eipper et al. in view of Sundgren. Claim 21 is currently amended to additionally recite, and thus clarify, that both the inner panel and the outer panel are "one-piece." As stated *infra*, Sundgren does not disclose, either expressly or inherently, a one-piece inner panel attached to a one-piece outer panel. Instead, Sundgren's bumper is formed from a single piece of material. There is no suggestion or motivation to use two distinct one-piece members to create Sundgren's bumper. As such, Applicants' believe that the amendment to claim 21 has obviated the Examiner's rejection, and claim 21 is therefore allowable.

CONCLUSION

This Amendment is believed to be fully responsive to the Office Action mailed June 6, 2005. The remarks in support of the amended claims and the rejected claims are believed to place this application in condition for allowance, which action is respectfully requested.

Respectfully submitted

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